

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

CLEANUP AND ABATEMENT ORDER NO. 98-103
V. SATTUI WINERY
SOLANO COUNTY, CALIFORNIA

The California Regional Water Quality Control Board, San Francisco Bay Region (the Board), finds that:

1. The V. Sattui Winery (Sattui, also discharger) owns a several hundred acre property north of Mankas Corner Road, between Ledgewood Road and Abernathy Road, in Solano County. During 1998, the property has been converted from pasture used for open range grazing into vineyards.
2. Before conversion, at least three seasonal creeks traversed the site, allowing drainage of the surrounding land and hills. These creeks, waters of the United States, were normally dry unless rainfall occurred. One creek flowed year-round after an upstream golf course was built. The three creeks discharge at two points into Ledgewood Creek.
3. Sattui obtained a Streambed Alteration Agreement from the Department of Fish and Game to fill in these three creeks and modify Ledgewood Creek. Fish and Game required a Riparian Enhancement Plan to revegetate the creek corridor, but did not require creation or re-creation of creeks, wetlands, or other waters to compensate for the permanent impacts to the creeks and their functions.
4. Sattui did not apply for, nor obtain, a Clean Water Act Section 404 U.S. Army Corps of Engineers Permit, which is required for discharging fill in jurisdictional waters of the U.S. In addition, Sattui did not apply for, nor obtain, a Clean Water Act Section 401 water quality certification or waiver from the Board.
5. A site inspection was held on September 21, 1998. Present were Stephen Berger and Hossain Kazemi of the Board, Brian Wirtz of the Corps of Engineers, and Paul Vander Schalie, the vineyard operations manager for Sattui. The inspection revealed that at least 1760 feet of creek channels had been filled. The creeks had been replaced by underground drainage pipe. Three inlets to direct the water flow into the underground pipes had been constructed at the edge of the property. Two of the pipes come together into one underground pipe. Two outlets from the pipes into Ledgewood Creek had been constructed. Both the inlets and outlets had not been adequately designed. During high velocity flows, there is danger of severe bank erosion in Ledgewood Creek. Some erosion control measures, such as straw covering, had been implemented at the vineyard. These measures may not be

adequate to control erosion. These measures need to be documented and an adequate erosion control plan formulated and implemented.

6. Wirtz said that the filling of the creeks would have required an individual Section 404 Permit from the Corps of Engineers, and would request that an after-the-fact permit be applied for by Sattui. The permit, when issued, would likely require mitigation for the impacts to the creeks and their functions.
7. Based on the above findings, the Board finds that the discharger has caused or permitted waste to be discharged or deposited where it has been discharged into waters of the State and created and threatened to continue to create a pollution. This Order, therefore, contains tasks for investigating and mitigating existing and potential future impacts to the creeks and other waters of the State, described in Finding 2 above, conducting hydrologic and other studies to design appropriate pipe outlets into Ledgewood Creek, and formulating an erosion control plan.
8. This Order is an action to enforce the Board's Water Quality Control Plan for the protection of the environment and as such is exempt from the California Environmental Quality Act, pursuant to Section 15321(a)(II) of Title 14, California Code of Regulations.
9. Pursuant to Section 13304 of the Water Code, the discharger is hereby notified that the Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Board to investigate unauthorized discharge of waste and to oversee cleanup of such waste, abatement of the effect thereof, or other remedial action, required by this Order.

IT IS HEREBY ORDERED, pursuant to Section 13304, of Division 7 of the California Water Code, that the discharger shall cleanup the waste discharged, abate the effect of the discharge, and take other remedial actions as follows:

A. Prohibition

The discharge of waste or hazardous materials that will significantly degrade water quality, and adversely affect beneficial uses of the waters is prohibited.

B. Remedial Measures

1. By **January 15, 1999**, the discharger shall submit an erosion control plan for all denuded areas, acceptable to the Executive Officer. The plan shall include a description, with a map, of erosion control measures that have been initiated, and of measures to be initiated in the future, along with an implementation schedule. The plan shall also incorporate erosion control measures for the inlet structures. The plan shall cover all past and future grading or planting areas.

2. By **January 15, 1999**, the discharger shall submit a proposal acceptable to the Executive Officer for redesigning the two recently constructed outlets into Ledgewood Creek. The proposal shall consider hydrologic data, as well as hydraulic, to design the outlets in order to reduce potential downgradient impacts to the Creek.
3. By **February 1, 1999**, the discharger shall submit a Report of Waste Discharge, pursuant to Section 13620 of the California Water Code, that fully describes the extent of the discharge of fill to the waters of the State described in Finding 2 above, and any other discharges of fill to waters of the State planned by the discharger. This Report of Waste Discharge shall also include a filing fee of \$1000, pursuant to California Code of Regulations, Title 23, Section 2200, and a mitigation plan acceptable to Executive Officer to compensate for the loss of the creek channels and any associated wetlands. The mitigation plan shall ensure that there is no net loss of acreage or values for creeks and wetlands impacted.
4. If the discharger is delayed, interrupted or prevented from meeting one or more of the completion dates specified in this Order, the discharger shall promptly notify the Executive Officer in writing with recommended revised completion dates. The Board may consider revisions to this Order.
5. Copies of all submittals, reports, and correspondence regarding compliance with this Order shall also be provided to the Corps of Engineers.

As described in Finding 9 above, upon receipt of a billing statement for costs incurred pursuant to Section 13304 of the Water Code, the discharger shall reimburse the Board.

Pursuant to California Water Code Sections 13304 and 13350, if a discharger fails to comply with the provisions of this Order, the Board may schedule a hearing to consider assessing civil monetary penalties and to consider requesting the Attorney General to take appropriate enforcement action against the discharger, including injunctive and civil monetary remedies.

Loretta K. Barsamian
Executive Officer

Date